

Oklahoma City v. Tuttle, No. 83-1919

Argued: January 8, 1985

The trial judge in this case instructed the jury that it could infer from "a single, unusually excessive use of force" that the city had engaged in inadequate training or supervision. I believe that this instruction was incorrect. Standing alone, a single, unusually excessive use of force by a single officer is not sufficient to warrant such an inference. In this case, of course, respondent introduced a great deal of additional evidence tending to show inadequate training or supervision. On my view, such evidence if believed would be sufficient to establish liability under §1983. But because we cannot be certain as to what (if any) of this other evidence was believed by the jury, the jury verdict may well have been based on this invalid inference. For this reason, I would reverse the Court of Appeals on the narrow ground that this single instruction was invalid. I would leave it up to the Court of Appeals in the first instance to decide whether that holding requires a new trial or whether instead the verdict here may be upheld on other grounds.

I do not agree with petitioner's argument that a single use of force is insufficient as a basis for municipal liability under §1983. If such a single use of force is caused by a municipal policy or custom, the city can be held liable. Monell itself notes that local governmental units, "like every other §1983 'person,' by the very terms of the statute, may be sued for constitutional deprivations visited pursuant to governmental 'custom' even though such a custom has not received formal

approval through the body's official decisionmaking channels." 436 U.S., at 690-691. The city in this case established a particular training program for police officers. If that program will foreseeably cause some officers to violate the constitutional rights of citizens, I believe that it may provide the basis for §1983 liability.

Reverse and remand